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Held at the Palais Wilson, Geneva, on Wednesday, 11 July 2018, at 10 a.m.

Chair: Mr. Shany

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Fourth periodic report of Lithuania (*continued*) (CCPR/C/LTU/4; CCPR/C/LTU/QPR/4)

1. *At the invitation of the Chair, the delegation of Lithuania took places at the Committee table.*

2. **Mr. Stankevičius** (Lithuania), resuming his delegation's replies to the questions raised at the previous meeting, said that the Inspector of Journalist Ethics issued decisions based on the principles of proportionality, necessity and lawfulness and in accordance with the Constitution and the relevant international agreements. Those decisions could be challenged before the courts.

3. **Mr. Staniulis** (Lithuania) said that nine legislative amendments relating to the rights of lesbian, gay, bisexual, transgender and intersex persons had been submitted to the parliament (Seimas). So far, none of them had been adopted. With respect to the proposal to amend the Civil Code in order to prohibit gender reassignment, for example, in October 2013 the Government had decided not to support the initiative on the grounds that it conflicted with the Constitution and the State's international commitments. The proposal to amend the Law on the Fundamentals of the Protection of Children's Rights in order to prohibit the adoption of Lithuanian children by same-sex couples had been rejected in October 2015 by the Human Rights Committee of the Seimas on the grounds that it was contrary to the country's international commitments. In October 2013 the Government had also decided not to support a bill that would prohibit abortion in all circumstances; in 2017, the Legal Affairs Committee of the Seimas had rejected the bill and had returned it to its initiators for further modifications.

4. **Ms. Kran**, referring to the findings of the European Court of Human Rights in the case of *Abu Zubaydah v. Lithuania* regarding the State party's participation in a secret detention programme run by the Central Intelligence Agency (CIA) of the United States of America, said that she would welcome information on the measures taken pursuant to the Court's decision in order to ensure that a sufficient degree of public scrutiny was maintained with respect to the investigation and that those responsible were brought to justice. She would like clarification as to which pretrial investigation material in that case had not been declared a State secret and why access to all such material had been restricted. In view of reports that some Lithuanian public servants had denied that the Court's judgment was binding, she wished to know whether public servants received adequate training and information on the State party's international legal obligations. She would also appreciate information on measures taken to reopen the pretrial investigation in the similar case involving Mustafa Ahmed al-Hawasawi. More generally, she wondered what was being done to ensure access to justice for other persons who had been held in the detention sites run by the United States Central Intelligence Agency.

5. The Committee had been informed that very few complaints of violence or other inappropriate conduct by prison officials were investigated or resulted in sanctions; that several inmates at Alytus prison and Marijampolė prison had reported ill-treatment and excessive use of force by prison staff; and that a pretrial investigation had been launched in response to allegations of correctional officers coercing inmates at Alytus prison. She would like to know what improvements had been made to ensure that complaints made by inmates led to appropriate proceedings and sanctions and how the State party ensured the independence of investigations into such complaints. She would also appreciate information on the outcome of the investigation concerning Alytus prison and on any plans to provide training on the prevention of ill-treatment to health workers who dealt with prisoners.

6. With respect to the definition of abuse of official position provided in paragraph 114 of the State party's report, she wondered whether excessive use of force fell under that definition; how the issue of abuse of official position was addressed in prison and detention centre policies; and how often the legal provisions on abuse of official position had been

applied by the courts in connection with the excessive use of force by prison or detention centre officials since 2010. In particular, she would appreciate information on the policies governing the use of force by special intervention units and the measures taken in response to allegations of ill-treatment by members of those units.

7. The Committee would be interested to hear what steps were being taken to further increase the use of alternatives to imprisonment for convicted persons; whether some prisons remained overcrowded despite the net decrease in the prison population; whether the length of custodial sentences had increased, thus contributing to the problem of overcrowding; and what measures were being taken to address the problem of inter-prisoner violence, which was reportedly exacerbated by the cramped conditions in the country's prisons. Lastly, it would be useful to know in what proportion of all cases had bail or other alternatives to pretrial detention been granted and what measures were being taken to ensure that legal procedures pertaining to persons awaiting trial were in line with article 9 (3) of the Covenant.

8. **Mr. Politi** said that he would like to know whether corporal punishment was prohibited not only in prisons but also in schools, other institutions and family settings. He would like more information on the protection afforded to child victims of abuse under the Law on Protection against Domestic Violence, the Law on the Fundamentals of the Protection of Children's Rights and the recent amendments to the Criminal Code. In particular, he wished to know how many cases of trafficking or exploitation of children for slavery, sexual services or prostitution had been investigated and prosecuted on the basis of the amendments made to the Criminal Code in July 2012 and how many sentences had been handed down under the amended provisions of the Criminal Code introduced between 2013 and 2015 to persons convicted of committing violence against minors or abusing them. It was unclear whether the 214 cases of violence against children that had been reported to the Ombudsperson for Children's Rights between 2010 and 2017 had been referred to the judicial authorities for investigation and, if so, what the outcome of those investigations had been.

9. He would like to know how the amendments listed in paragraph 170 of the State party's report ensured free and effective legal representation for persons deprived of legal capacity, particularly in proceedings concerning their legal capacity. Under amendments made to the Civil Code, persons could be considered to lack legal capacity in certain areas only; he would like clarification as to which areas were concerned by that provision and, in particular, whether that provision could be used to restrict a person's right to marry, right to vote and right to stand for election.

10. He would welcome more information on the content of the new law on mental health in the light of reports that it was inconsistent with the Code of Civil Procedure. He would also appreciate information on the legal remedies available in cases of involuntary hospitalization and medical treatment and on the legal provisions that allowed for surgical operations to be performed on persons with disabilities without their consent.

11. He would like to hear more about the categories of persons who were entitled to legal aid under the Law on State-Guaranteed Legal Aid. He wondered whether, under exceptional circumstances, persons deprived of legal capacity could apply for its full reinstatement more than once a year and whether legal aid was available to persons deprived of legal capacity who had been subjected to involuntary hospitalization or medical treatment.

12. The State party had indicated that personal data could be shared with certain parties in cases provided for by law. It would be useful if the delegation could give some examples of cases in which there was a legal basis for the provision of data to private or State recipients and indicate whether existing case law was used as guidance in the interpretation of the relevant legal provisions. He would like clarification as to who was responsible for enforcing data management laws and exactly how the State Data Protection Inspectorate supervised their enforcement. Lastly, he wished to know what kinds of complaints the Inspectorate was authorized to examine, whether the Inspectorate had the power to impose sanctions and, if so, what kinds of sanctions had been imposed.

13. **Ms. Cleveland** said that she would welcome information on the bill that, if passed, would restrict access to abortion to cases of rape and cases in which the woman's life or health was at risk, as well as on the status of the proposed amendment to the Law on Consumer Protection. The national human rights institution, the Committee against Torture and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment had voiced serious concerns about the poor prison conditions in the country and the State party's failure to implement its plan for the modernization of places of detention. She would like to know what efforts had been made to give effect to the recommendations of those three bodies, to improve conditions of detention and to move forward with the closure, renovation and construction of prisons.

14 It was encouraging to learn of the State party's efforts to improve the conditions in the Foreigners' Registration Centre. Still, she would be grateful to hear more about the measures taken to implement the recommendations of the Seimas Ombudsman's Office in that regard. It would be helpful for the delegation to also comment on reports that detained refugees and migrants were allowed outside for only one hour per day and to indicate whether there was a complaints mechanism for migrants or asylum seekers.

15. It would be useful to know what steps had been taken to ensure that persons seeking international protection were identified and registered as asylum seekers at border crossings and at the Foreigners' Registration Centre, informed about the asylum procedure and referred to the relevant authority promptly. She wished to know whether allegations of denial of entry or access to asylum procedures were duly investigated. Was it true that asylum seekers were sometimes detained at the border for up to 28 days, in unsuitable conditions and without access to judicial remedies? If so, the delegation should indicate what had been done to protect asylum seekers from unlawful or arbitrary detention and ensure that they had access to a judicial review of their detention. It would also be helpful to obtain information about the average period for which migrants were held and about the use of non-custodial alternatives. She would like to know how asylum seekers were informed of their right to free legal aid, whether that right also applied to regular and irregular migrants, and how often those persons were represented by counsel. Details would also be appreciated on measures taken to combat stereotypes and prejudice against migrants and asylum seekers under the 2017–2019 Action Plan for Promoting Non-Discrimination and to respond effectively to expressions of hatred.

16. **Mr. Fathalla** said that he would be grateful for additional clarification about the sexual harassment provisions of the Labour Code and their application in practice. He wished to commend the delegation for its very thorough replies to the Committee's questions regarding trafficking. Given that no applications for temporary residence permits had been issued to victims of trafficking in 2013–2016, was it to be concluded that the issue had been largely resolved?

17. Additional information was needed about the alternative national defence service. The State party had indicated that applications for alternative service should be based on religious or pacifist beliefs that did not allow a person to perform military service while armed. Were there no other criteria? He also wished to know whether the conditions under which alternative service was performed, including duration and pay, were the same as for military service.

The meeting was suspended at 10.50 a.m. and resumed at 11.10 a.m.

18. **Ms. Goštautaitė** (Lithuania) said that the allegations concerning the secret detention centre operated by the Central Intelligence Agency (CIA) on Lithuanian territory had been thoroughly investigated. Details of the investigations and other relevant facts were provided in the State party's report to the Committee. Although no specific criminal acts committed by public officials had been established to date, the investigation remained open. Requests for judicial assistance extended to the Governments of Afghanistan and the United States had produced no results thus far. As the pretrial investigation was confidential and some of the data concerned national security, no more details could be provided at the present time.

19. **Ms. Milašiūtė** (Lithuania) said that Lithuanian civil servants were keenly aware of the binding nature of judgments rendered by the European Court of Human Rights. In the *Abu Zubayda v. Lithuania* case, there were practical stumbling blocks that were hindering

the implementation of the judgment, such as the matter of how to make payment of compensation to a person imprisoned in another country. The Court had yet to render a final judgment, and her Government was currently engaged in consultations concerning the possibility of lodging an appeal with the Grand Chamber of the Court. A decision on that matter was expected in August 2018.

20. Lukiškės prison in Vilnius was notorious for its poor conditions. The Government had planned to sell the historic building and use the proceeds to build a new prison complex outside the capital. Since no buyer had come forward to date, however, the building continued to serve as a prison. The newly appointed Minister of Justice had announced plans to use some of the funds from the 2009–2014 Norwegian Financial Mechanism to build new units in existing facilities outside the capital. Lukiškės prison would be closed down upon completion of those construction works.

21. Prisoners in Lithuania had effective access to the courts. Administrative courts received a large number of complaints about prison conditions, and there was no legal impediment to filing complaints of physical or verbal abuse by prison officials. Independent investigations were conducted into such complaints, and officials could be prosecuted under the Criminal Code. Special intervention units in prisons were either public security units attached to the Ministry of the Interior or specially trained units attached to the Prison Department of the Ministry of Justice.

22. Despite a major shift in recent years towards the increased use of non-custodial measures, the number of persons released on parole had actually decreased. That could be attributed partly to the fact that persons serving long sentences were not yet eligible to apply for alternative sentencing and partly to the reluctance of judges to grant parole in cases that had attracted media attention. That situation could only be remedied by changing people's attitudes. By contrast with the situation in respect of parole, the number of suspended sentences was on the rise. The proportion of pretrial releases on bail, currently under 1 per cent, was also increasing. Overall, detention on remand was being used less frequently than in the past.

23. **Ms. Charašauskaitė** (Lithuania) said that, although alternatives to pretrial detention were not broadly used, some progress had been made. Release on parole had been granted in 233 cases in 2016 and 272 cases in 2017. In 2017, seizure of documents had been applied in some 4,000 cases; an obligation to reside separately from the victim in approximately 2,000 cases; house arrest in over 200 cases; an obligation to register with a police station on a regular basis in some 4,000 cases; and a written obligation to stay within a certain defined area in over 23,000 cases.

24. **Ms. Dulkinaitė** (Lithuania) said that the Law on the Fundamentals of the Protection of Children's Rights, as amended in 2017, contained a broad definition of violence against children that included neglect. It also prohibited corporal punishment and set forth the obligation of parents and other legal guardians to ensure that children's physical, emotional and social needs were met.

25. The Support Centre for Child Victims of Sexual Abuse had been established in 2016 and afforded integrated assistance for child victims of sexual abuse and their families, providing psychological, social, legal and medical services in a child-friendly, safe environment. Guidelines on the provision of integrated assistance for child victims of sexual exploitation had been prepared in order to enable child welfare institutions to protect children's rights more effectively. The Centre offered training on child rights for staff in different institutions. In early 2017, mobile units had been introduced to provide services to victims and their families closer to their place of residence. Under the National Action Plan for Child Welfare, 12 non-governmental organizations (NGOs) had been awarded funding through a bidding process; in 2017, they had provided integrated assistance to some 700 child victims of violence and their families.

26. **Mr. Milevičius** (Lithuania) said that the Law on Protection against Domestic Violence provided for a more systematic approach to combating that form of violence. State-funded NGOs assisted victims of domestic violence in specialized centres throughout Lithuania. The number of persons receiving such assistance had risen from around 5,000 in 2013 to almost 19,000 in 2017. According to opinion poll results, public awareness of the

support available to victims and of the action being taken to counter domestic violence had risen from approximately 40 per cent to almost 70 per cent and from around 40 per cent to nearly 80 per cent between 2014 and 2017, respectively.

27. **Ms. Milašiūtė** (Lithuania) said that legislation on the limitation of legal capacity had been amended to bring it into line with article 12 of the Convention on the Rights of Persons with Disabilities and to reduce the number of instances in which such limitations could be imposed. The law did not stipulate in which specific areas — for example, the ability to vote or marry — a person's legal capacity could be limited; that was left to the discretion of the courts. The ultimate aim of the legislative changes was to do away with the concept of legal incapacity and to provide for tailored support for individuals based on their capacity and specific needs.

28. Legal aid was to be provided, by law, to all persons engaged in court proceedings concerning their legal capacity or involuntary hospitalization, regardless of their level of income or assets. In 2017, decisions on the provision of legal aid had been issued in around 800 cases concerning persons with severe disabilities or incapacity for work, in almost 600 cases dealing with persons potentially facing involuntary hospitalization or treatment and in over 4,300 cases concerning a person's legal capacity.

29. The rule according to which a decision on a person's legal capacity could be reviewed only once a year was intended to ease the associated administrative burden. Regrettably, she had no data on whether the courts had granted any exceptions to that rule. Under the Civil Code, involuntary hospitalization or its prolongation required a court order. A bill was under consideration that would, once adopted, define the procedure to be followed in that regard in greater detail and distinguish between the concepts of involuntary hospitalization and involuntary medical treatment.

30. **Ms. Dulkinaitė** (Lithuania) said that the steps being taken under the action plan on non-discrimination were helping to educate the public about the integration of foreign nationals and promoting intercultural dialogue. As part of that effort, articles had been published in the media and posters were displayed on public transport vehicles.

31. **Ms. Charašauskaitė** (Lithuania) said that Lithuania had acceded to the Protocol relating to the Status of Refugees in 1997 even though it was not generally considered to be a destination country for refugees and asylum seekers. The Foreigners' Registration Centre consisted of two separate buildings: one for illegal immigrants and the other for asylum seekers. With the assistance of the European Return Fund and the European Refugee Fund, living and sanitary conditions in both buildings had been improved since 2012. Alternative meals were made available to persons who refused to eat certain foods because of their religious beliefs, and psychological, health-care, social and other services were provided. A centre equipped to accommodate child asylum seekers had also been opened. New buildings for the accommodation of vulnerable groups and for the investigative work required to process asylum seekers' applications were under construction.

32. Immigrants who entered the country illegally could be detained for no more than 48 hours by the police or other law enforcement officers. The same applied to asylum seekers. Detention for longer periods, up to the maximum duration of 12 months, had to be ordered by a court. Alternatives to detention were provided for. For instance, in 2017, 16 foreigners had been accommodated in the Foreigners' Registration Centre without any restrictions being placed on their freedom of movement. In addition, 15 asylum seekers had been resettled in the municipalities since 2017.

33. **Ms. Montvydaitė** (Lithuania) said that, since the Lithuanian population had decreased by around a quarter over the previous 25 years, some municipalities were actively trying — and even competing among one another — to attract migrants to live and work there.

34. **Mr. Germanas** (Lithuania) said that, while many migrants who arrived in Lithuania ultimately settled in other countries, his country was nonetheless ready to fulfil its obligations as a member of the European Union to resettle migrants.

35. **Ms. Milašiūtė** (Lithuania) said that the role of the State Data Protection Inspectorate had become more visible since the promulgation of the European Union General Data

Protection Regulation. The Seimas had recently adopted amended versions of both the general data protection law and the specialized data protection law on police and judicial cooperation in criminal matters. The Inspectorate was empowered to impose the substantial administrative fines provided for under the General Data Protection Regulation in accordance with the Code of Administrative Offences. Fines could be appealed against before the administrative courts. The Inspectorate could request the assistance of the police to forcibly enter premises. Since the amended laws had been adopted only very recently, information on their application was not yet available. However, the Inspectorate was making considerable efforts to raise public awareness of the content of the General Data Protection Regulation.

36. **Ms. Dulkinkaitė** (Lithuania) said that, under the Law on Equal Opportunities of Women and Men, sexual harassment was defined as any unwanted offensive behaviour directed at a person verbally, in writing or through physical action with the aim of undermining the person's dignity. That law had been amended in 2017 to extend the definition of sexual harassment in the workplace to cover job applicants, as well as employees. Under the Labour Code, employers had a responsibility to ensure that no type of harassment occurred in the workplace and were required to apply non-discrimination criteria when hiring new staff. Employers were also required to ensure that any employees who reported discrimination were protected from persecution and other adverse consequences. Complaints of discrimination were examined using comparative methods; for example, the status of a female employee claiming to be the victim of gender-based discrimination would be compared to that of a male employee with equivalent experience or qualifications.

37. In 2017, the organization Electoral Action of Poles in Lithuania had submitted a bill to the Seimas that would have placed restrictions on access to abortions, but the parliamentary committees on legal affairs and human rights had dismissed it on the grounds that it could constitute a violation of women's rights and lead to an increase in illegal abortions. The Ministry of Health also opposed the prohibition of abortion and had stated that more educational measures would be of greater use. It should be noted that the number of women choosing to have abortions had decreased, as had the number of pregnancies among adolescents.

38. **Ms. Goštautaitė** (Lithuania) said that sexual harassment was most common in the workplace but could occur in any situation in which the victim was or could be under the authority of the perpetrator. There was no definitive list of potential situations of that kind, but examples included the relationships between teachers and pupils, doctors and patients, and coaches and athletes.

39. **Mr. Stankevičius** (Lithuania) said that approximately 3,000 conscripts up to the age of 27 were called up each year, but it had not yet been necessary to enforce conscription in the military as, to date, all recruitment quotas had been filled by volunteers. Applicants for alternative service, including pacifists, had therefore not been required to serve in any capacity. In order to assess applications for alternative service, which must be made prior to the proposed starting date for service, the Government had established a commission which included experts in fields such as human rights protection and religious science. The commission based its decisions on the criteria established in legislation governing public servants, which included a person's level of education and personal reputation, although applicants were also required to provide relevant documentation and objective evidence. For example, persons filing applications made on religious grounds had to demonstrate their affiliation to a legally recognized religious group. Since 2015, only one application for alternative service had been rejected owing to a lack of objective evidence; in total, 10 applications for alternative service had been filed in the first seven months of 2018, and all of them had been based on religious beliefs. Individuals engaged in military and alternative service were entitled to the same allowances and received the same equipment, with the exception of weapons and other lethal objects. Volunteers for military service also received additional financial incentives.

40. An amendment to the Law on Consumer Protection had been introduced in 2017 to ban certain products. However, after consideration by parliamentary committees to determine that provision's compliance with domestic and international legislation, it had

been rejected on the grounds that it was inconsistent with the Constitution and could limit freedom of expression. In 2018, a legislative proposal had been submitted that would ban products that featured certain prohibited symbols, but it had not yet been considered by any parliamentary committee.

41. **Ms. Kran** said that she would appreciate information on the duration of pretrial detention in 2017 and on the reasons for the dramatic decrease in the length of pretrial detention observed between 2015 and 2016. In addition, she would like confirmation that only 1 per cent of applications for the use of alternative measures in the place of pretrial detention had been approved.

42. She wished to know what the overall impact of the Code of Administrative Offences had been since its entry into force in 2017 and whether the Code still provided for the possibility that persons remanded into custody could be held under house arrest for up to 15 days. She would also appreciate any information that the delegation could provide on reports that fundamental legal guarantees for persons deprived of their liberty, including the right to counsel, were not always upheld from the outset of a person's detention.

43. **Ms. Cleveland** said that she would appreciate further information on measures relating to the detention of migrants and asylum seekers at the border and wished to know what the average length of detention was for migrants and whether migrants had access to legal assistance.

44. Regarding the situation of people considered to pose a threat to national security, she would like to know how the authorities determined who constituted a threat and what purpose was served by identifying such persons publicly, particularly when no action was taken against them.

45. Regarding child protection, she wished to know whether the Civil Code permitted courts to grant permission for persons under the age of 18 to marry if the woman in question was pregnant. She would also appreciate any information on the so-called "baby boxes" where people could abandon children anonymously, including whether they were still in use and how they were regulated.

46. **Mr. Politi** said that he would be interested to learn about any court decisions concerning the involuntary hospitalization and treatment of persons with disabilities, including the maximum length of such hospitalization. He would also appreciate information on sterilizations or abortions carried out on persons with disabilities without their consent and would like to know whether such actions were legislated or determined by the courts, and, if the latter, exactly what role the courts performed.

47. Regarding child protection, he would appreciate assurances that child migrants and asylum seekers were not detained for any appreciable amount of time. Were such children held in reception centres and, if so, for how long? Was any provision made for guardianship arrangements for unaccompanied minors?

48. **Ms. Milašiūtė** (Lithuania) said that it was correct that approximately 1 per cent of suspects were released on bail at the pretrial investigation stage. However, provision was also made for non-custodial measures such as intensive supervision, house arrest, the confiscation of identity documents and registration with the police.

49. **Ms. Charašauskaitė** (Lithuania) said that asylum seekers could be detained by State border guards for over 48 hours if authorized to do so by a court decision, but no foreign national could be held for longer than six months. Under the Law on the Legal Status of Aliens, as soon as foreign detainees were taking into custody, they were informed of their rights, including the right to legal assistance, in writing and in a language that they were able to understand. Child migrants and asylum seekers were housed in social institutions and were assigned guardians, irrespective of whether they applied for asylum or not.

50. **Mr. Milevičius** (Lithuania) said that 10 babies had been found in baby boxes in Vilnius in the first six months of 2018.

51. **Mr. Germanas** (Lithuania) said that, in his view, the dialogue had been both productive and thorough. The Government would continue to work towards the full

implementation of the Covenant and the revision of the national legal framework in order to make further improvements and to incorporate the Committee's Views.

52. **The Chair** said that the Committee had appreciated the delegation's informative and frank contributions to the dialogue. The State party had made progress since the submission of its third periodic report, although the pace of improvement had not been as fast as had been hoped in such areas as prison conditions and discrimination against Roma and the lesbian, gay, bisexual, transgender and intersex community. However, the country appeared to be making a determined effort to meet its obligations under the Covenant and was moving in the right direction.

The meeting rose at 12.55 p.m.